

# FISCAL NOTE

**Bill #:** HB0516

**Title:** Prohibit public charity competition with small business

**Primary**

**Sponsor:** Larry Grinde

**Status:** As introduced

Sponsor signature	Date	Dave Lewis, Budget Director	Date
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## Fiscal Summary

	<b><u>FY2000 Difference</u></b>	<b><u>FY2001 Difference</u></b>
<b>Expenditures:</b>		
General Fund	\$137,900	\$0
<b>Revenue:</b>		
General Fund	43,750	330,790
State Special Revenue	0	15,360
<b>Net Impact on General Fund Balance:</b>	<b>(\$94,150)</b>	<b>\$330,790</b>

<b><u>Yes</u></b>	<b><u>No</u></b>		<b><u>Yes</u></b>	<b><u>No</u></b>	
X		Significant Local Gov. Impact	X		Technical Concerns
	X	Included in the Executive Budget	X		Significant Long-Term Impacts

## Fiscal Analysis

### ASSUMPTIONS:

1. If passed by the legislature, the proposal is applicable to income taxes and property taxes for commercial enterprise activity engaged in by nonprofit corporations and purely public charities commencing January 1, 2000. Income tax revenue impacts will occur beginning in FY2000. Property tax revenue impacts will occur beginning in FY2001.
2. The impacts associated with the companion bills HB 517, HB 518 and HB 519 are included in this fiscal note.
3. There are approximately 8,200 non-profit and charitable organizations in Montana (source – Secretary of State). The Department of Revenue estimates that 500 of these organizations will be impacted by this proposal.

### **Property Tax Impacts (HB517 &HB519)**

**Revenue:**

(continued)

4. The average phase-in value of commercial land and improvements in 1998 was \$135,000 (source – DOR CAMA system).
5. The class 4 property tax rate in tax year 1999 will be 3.794%.
6. The average mill levy for city and towns in 1998 was 440 mills (source – 1998 state report).
7. The estimated market value of 500 properties affected by this proposal is \$67,500,000. The estimated total taxable value is \$2,560,950.
8. The estimated increase in property taxes for FY2001 is \$1,126,800, of that \$243,290 is distributed to the general fund, \$15,360 is distributed to the university account, and \$868,150 is distributed to local governments and schools.

**Administrative Costs:**

9. The proposal requires an estimated 3.50 FTE in FY2000. Approximately 8,200 exempted organizations must be researched, reviewed and processed for tax exemption status. Approximately 500 properties will require a commercial appraisal and a tax assessment for the first time. The department estimates that it will require 1 appraisal specialist, 2 commercial appraisers and one half-time property valuation specialist to implement the property tax proposals for a one-time personal service cost of \$109,000 in FY2000.
10. The department estimates that forms, taxpayer education and mailing costs amount to a one time operating cost of \$7,050 for FY2000.
11. The total administrative cost for property tax administration is \$116,050 in FY2000.

**Corporation Tax Impacts (HB518)**

**Revenue:**

12. An estimated 500 Montana corporate license tax returns would be filed by organizations affected by this proposal. The estimated increase in corporate tax revenue created by provisions of this proposal range from \$25,000 to \$150,000 annually. For the purpose of this fiscal note, the midpoint of the revenue range (\$87,500) is used to estimate the revenue impact. The proposal is applicable to tax payments midway through FY2000, therefore the general fund will receive \$43,750 in FY2000 and \$87,500 in FY2001.

**Administrative Costs:**

13. An additional 0.50 FTE is required for an auditor to contact taxpayers, conduct taxpayer education and perform additional audits for a one-time personal service cost of \$18,350 in FY2000.
14. The department estimates that forms, taxpayer education, and mailing costs amount to a one-time operating cost of \$3,500 for FY2000.
15. The total administrative cost for the corporate license tax administration is \$21,850 in FY2000.

**Total Revenue and Administrative Impacts**

16. Total revenues will increase by an estimated \$43,750 (corporate license tax) in FY2000 and will be distributed completely to the general fund. Total revenues will increase by an estimated \$1,214,300 (corporate license taxes plus property taxes) in FY2001, of that \$330,790 is distributed to the general fund, \$15,360 is distributed to the university account, and \$868,150 is distributed to local governments and schools.
17. The total one-time administrative expenditure is an estimated \$137,900 in FY2000.

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FISCAL IMPACT:

	<u>FY2000 Difference</u>	<u>FY2001 Difference</u>
FTE	4.00	0.00
<u>Expenditures:</u>		
Personal Services	\$127,350	\$0
Operating Expenses	<u>10,550</u>	<u>0</u>
TOTAL	\$137,900	\$0
<u>Funding:</u>		
General Fund (01)	\$137,900	\$0
<u>Revenues:</u>		
General Fund (01)	\$43,750	\$330,790
State Special Revenue (02)	0	15,360
<u>Net Impact to Fund Balance (Revenue minus Expenditure):</u>		
General Fund (01)	(\$94,150)	\$330,790

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Local governments and schools will receive an increase in property tax revenue of \$868,150 beginning in FY2001.

LONG-RANGE IMPACTS:

The general fund, university account, and local governments and schools will receive an estimated increase in property tax and corporate license taxes of \$1,214,300 beginning in FY2001. This will continue each year into the future.

TECHNICAL NOTES:

1. New section (1) states that a nonprofit corporation or charity *may* lose its exempt status when it engages in a commercial enterprise. This suggests that revocation of exempt status is discretionary.
2. New section (1) exempts incidental and periodic sales to the general public. The terms are vague and may create technical and legal problems. The proposal does not provide guidelines to determine which types of transactions are a substantial commercial enterprise and which transactions are “incidental” or “periodic”. If federal guidelines are used, the purpose of this proposal may not occur. For example, a federally recognized nonprofit organization such as the YMCA that competes against for-profit health clubs may be considered to engage in “incidental” sales to the public.
3. Section 3, which proposes to revoke the exempt status of only certain exempt organizations, may create legal problems. Under the amendments made to section 15-31-102 MCA, it appears that exempt organizations such as civic leagues, social clubs, fraternal organizations, etc., may engage in a commercial enterprise without endangering their tax-exempt status for Montana corporation license tax purposes. Distinguishing between certain types of nonprofit organizations for revocation purposes raises issues of equal protection.